REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1-6, 8 are rejected under 35 U.S.C. 102(b) over the U.S. patent '815.

Claims 9 and 16 are rejected under 35 U.S.C. 103(a) over the patent '815.

Claims 14-16 are rejected under 35 U.S.C. 103(a) over the patent '815 in view of the patent '790.

At the same time, claims 7, 10, 11, 12, and 13 are not rejected over the art.

Also, the claims are rejected under 35 U.S.C. 112.

In connection with the Examiner's rejection of the claims under 35 U.S.C. 112, it is respectfully submitted that the containers are inserted into one another. Each of the containers with the exception of the central

one is formed as a circular container, so that the outermost container has the greatest diameter, the next container inwardly has smaller diameter, etc. As for claim 3, claim 3 defines the holes shown in the drawings, while claim 1 in line 8 defines a throughgoing opening or passage which is formed when for example a central container is removed and an opening or space is produced in this way.

The grounds for the other objections have been eliminated by corresponding changes.

The Examiner's indication of the allowability of some claims has been gratefully acknowledged. In connection with this, claims 7, 10, 11 and 13 have been canceled and replaced with new independent claims 18, 19, 20 and 21, and claim 12 has been amended to depend on claim 20. It is believed that these claims are now in allowable condition.

At the same time, claim 1, the broadest claim on file, has been amended to more clearly define the present invention. It is respectfully submitted that claim 1 specifically defines that in the inventive device all containers have upper horizontal surfaces which extend in a same horizontal plane and form a common horizontal upper surface on which a cat can stand

or sit. As can be clearly seen from Figure 1 of the present application, there is a common upper surface which extends transversely through the whole transverse dimension of the device, so as to produce a substantially extended, almost uninterrupted surface on which a cat can stand or sit. In contrast, as can be seen from Figure 2 of U.S. patent no. '815, the upper surfaces of the containers are spaced from one another in a vertical direction, do not extend in a same horizontal plane, and therefore only small peripheral flange 32 is formed on which a cat can stand and sit, instead of a significant, extended, common horizontal surface formed in the applicant's device.

The new features of the present invention which are defined in the amended claim 1 are not disclosed in this reference as well as in other references.

The original claim 1 was rejected as anticipated by the U.S. patent '815. As clearly explained herein above, the new features of the present invention which are now defined in the amended claim 1 are not disclosed in this reference. As stated in decision Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984) in which:

> "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."

Definitely, the reference does not contain all elements of the present invention as defined now in the amended claim 1.

Also, as explained herein above, the present invention as defined in claim 1 provides for the highly advantageous results. It is well known that in order to support a valid rejection the art must also suggest that it would accomplish applicant's results. This was stated by the Patent Office Board of Appeals, in the case Ex parte Tanaka, Marushima and Takahashi (174 USPQ 38), as follows:

> Claims are not rejected on the ground that it would be obvious to one of ordinary skill in the art to rewire prior art devices in order to accomplish applicants' result, since there is no suggestion in prior art that such a result could be accomplished by so modifying prior art devices.

In view of the above presented remarks and amendments, it is believed that claim 1, the broadest claim on file, should be considered as patentably distinguishing over the art and should be allowed.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-243-3818).

Respectfully submitted,

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